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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/698,883

10/31/2003

David B. Fallin

C4-1163

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01/10/2006

IP LEGAL DEPARTMENT
TYCO FIRE & SECURITY SERVICES
ONE TOWN CENTER ROAD
BOCA RATON, FL 33486

EXAMINER

NGUYEN, TAI T

ART UNIT

PAPER NUMBER

2632

DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/698,883

Applicant(s)

FALLIN ET AL.

Examiner

Tai T. Nguyen

Art Unit

2632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 20 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7,9-11,22-30 and 33-44 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-7,9-11,22-28 and 33-44 is/are allowed.
- 6) ☒ Claim(s) 29-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 29 is rejected under 35 U.S.C. 102(b) as being anticipated by (US 5,745,036).

Regarding claim 29, Clare discloses a system for integrating point of sale (POS) data and electronic article surveillance (EAS) data comprising:

a vending database (35, 40, 46) to store the POS data and EAS data (col. 5, line 60 through col. 6, line 17) and col. 6, lines 28-51);

a general purpose computer (34) operative communication with the vending database (figures 1 and 5a-5b; col. 6, lines 18-28 and col. 6, line 61 through col. 7, line 10); and

a POS device (18) capable of use in connection with sale, the POS device being operable to obtain product information about an article (12, col. 5, line 49 through col. 6, line 17), wherein the POS device is further operable to deactivating the EAS tag (22) associated with the article of merchandise and to obtain EAS tag information upon deactivation of the EAS tag (col. 9, lines 15-58).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Clare (US 5,745,036) in view of Salim et al (US 2004/0113791).

Regarding claim 30, Clare discloses everything claimed except the POS device being further operable to generate the POS data based on the product information and the EAS tag information. Salim et al. teach a POS data being based on product information and EAS information (figure 1, paragraphs 29-30). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use both the product information and EAS information to generate the POS data for the purpose of enhancing accuracy.

Allowable Subject Matter

5. Claims 1-7, 9-11, 22-28, 33-34, and 36-44 are allowed.

Response to Arguments

6. Applicant's arguments with respect to claims 1-7, 9-11, 22-30, 33-34, and 36-44 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tai T. Nguyen whose telephone number is (571) 272-2961. The examiner can normally be reached on Monday-Friday from 7:30am-5:00pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel J. Wu can be reached on (571) 272-2964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Tai T. Nguyen', with a long horizontal flourish extending to the right.

Tai T. Nguyen
Examiner
Art Unit 2632

January 6, 2006